

### **REMARKS**

Reconsideration and removal of the grounds for rejection are respectfully requested. Claims 14-28 were in the application, claims 14-17 were previously withdrawn, and claims 18-20 have been amended. Withdrawn claims 14-17 have been amended substantially to conform to amended claim 18, so as to be in condition for rejoinder, should claim 18 be considered allowable.

Claim 18 has been amended as clarify that the pressurized environment is maintained in the first enclosure during operation of the work portions of the packaging machine, and also, that the pressure in the second chamber is maintained at the same pressure as the outside pressure, during operation of the packaging machine, even though the sole source for air entering the second chamber is air passing through the passages from the first chamber, with suction means withdrawing an amount of air sufficient to maintain the outside air pressure. Claim 18 clarifies that air is only received from the first chamber, the generating means being used to provide the pressurized environment in the first chamber, with the suction means used to withdraw sufficient air from the second chamber so that the flow received from the first chamber through the passages doesn't cause the pressure in the second chamber to rise substantially over the outside pressure.

Claims 18-28 were rejected as being obvious over Monti, U. S. Patent 6,675,555 in view of Young, U.S. Patent 5,912,184.

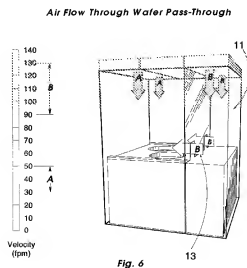
The Examiner referred to Monti as disclosing a packaging machine with an enclosing chamber, but admitted that no chamber in Monti is pressurized. The Examiner cited Young as disclosing "an apparatus comprising: an environmentally enhanced enclosure that is pressurized to minimize contamination in the chamber."

The applicants' invention however provides two chambers, only one of which is pressurized, that is, the first pressurized chamber, with a second enclosing chamber only receiving air from the first chamber being maintained at a pressure equal to the outer environment (atmospheric pressure). This despite pressurized air being delivered into the second enclosing chamber through the passages leading from the first chamber. Under

normal circumstances, the two chambers would reach an equilibrium pressure, that is, the second enclosing chamber pressure would rise to a level corresponding to the first chamber. However, the applicants' invention uses suction means for withdrawing air in an amount sufficient from an inside of the second chamber to keep the pressure substantially constant and equal to the atmospheric pressure, and to maintain the pressures in each chamber, as claimed, during operation of the packaging machine.

Young is to the contrary, as Young discloses an input/output area 11 and a processing chamber/process area, with both the input/output area 11 and the processing chamber receiving supply air and both operated under positive pressure conditions, i.e. at a pressure above the atmospheric pressure. This is clear from the description, col. 3 lines 19-24 and the table in col. 7, as well as from the drawings.

Note in particular Fig. 6 which shows how air is added to both sides of the enclosure:



With reference to the applicants' invention, there are no air flows directed into the second chamber; air is only received from the first chamber:

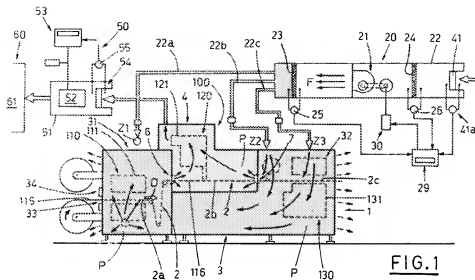


FIG.1

In Young, the pressure inside the processing chamber is not equal to the outside pressure during normal operation, as clearly indicated in Fig. 2a which gives the relative pressures. This only occurs during maintenance when the enclosure is opened and so it is not functioning as an enclosure(see col. 3, lines 48-49).

When in operation, air must be supplied to both chambers in Young, and these flows must be balanced, with air only exiting either chamber by virtue of a positive pressure being present (see Figure 2A).

In view of the above, even combining the teaching of Monti and the teaching of Young, a person of ordinary skill would not be led to the claimed invention, but in fact be led away from the invention; Young leads one to supply air to both enclosures, and to also provide positive pressure within both enclosure areas.

In conducting an obviousness analysis, "[a] fact finder should be aware . . . of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning." KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1742, 167 L. Ed. 2d 705 (2007). This is because the genius of invention is often a combination of known elements that in hindsight seems preordained. In re Omeprazole Patent Litig., No. MDL 1291, 490 F. Supp.

2d 381, 2007 U.S. Dist. LEXIS 39670, at 400-01 (S.D.N.Y. May 31, 2007) (citation omitted) (quoting KSR, 127 S.Ct at 1742); see also *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138 (Fed. Cir. 1985), *Raytheon Co. v. Roper Corp.*, 724 F.2d 951, 961 (Fed. Cir. 1983) (stating that "virtually every claimed invention is a combination of old elements").

The Court in KSR also wrote, "[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741, 167 L. Ed. 2d 705 (2007) ("To facilitate review, this analysis should be made explicit.") (citing Kahn, 441 F.3d at 988... "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006).

If the prior art teaches away from combining known elements in the manner claimed by the invention at issue, discovering a successful way to combine them is less likely to be obvious. See KSR Int'l, 127 S. Ct. at 1740, 1745.

The KSR decision is instructive and given the facts here, claim 18 is not obvious and is patentable, as claim 18 includes elements not found in the prior art, and leads to a result not predictable based on the references cited by the examiner. Consequently, the determination of obviousness is incorrect, and claims 18-28 are patentable.

Should claim 18 be in condition for allowance, rejoinder of claims 14-17 is hereby requested, as claim 14 has been amended to substantially track the changes of amended claim 18.

Based on the above amendments and remarks, favorable consideration and allowance of the application are respectfully requested. However should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application, the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

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